



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.1961 of 2018

and

CRL.M.P.(MD) Nos.849 and 850 of 2018

S.Syed Abuthahir

... Petitioner

-vs-

1.State rep. by
The Inspector of Police,
B1- Vilakkuthoon Police Station,
Madurai City.

2.Manikandan

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet filed in C.C.No.13 of 2017, pending before the learned Judicial Magistrate No.I, Madurai and to quash the same as far as the petitioner's concerned.

For Petitioner : Mr.P.Sona Alagesh

For R1 : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

ORDER

This Petition has been filed by the petitioner/Accused No.2, to quash the proceedings in C.C.No.13 of 2017, on the file of the learned Judicial Magistrate No.I, Madurai.

2.The learned counsel appearing for the petitioner submitted that the petitioner is running a mobile shop. She further submitted that the Accused No.1 has been arrested for the offence punishable under Section 379 I.P.C. and based on the confession given by the Accused No.1, the petitioner herein has been implicated in C.C.No.13 of 2017, and charge sheet has been filed against the petitioner under Section 411 I.P.C., alleging that he has received the stolen article. She further submitted that unless the main accused i.e., the Accused No.1 is found guilty for the offence under Section 379 I.P.C., the petitioner herein cannot be prosecuted for the offence under Section 411 I.P.C.



3.The learned Government Advocate (Crl. Side) has submitted that based upon the confession given by the Accused No.1, the stolen article has been recovered from the petitioner herein and hence, he has been charged under Section 411 I.P.C.

4.Admittedly, charge sheet has been filed alleging that the Accused No.1 has stolen a mobile phone and the case against the Accused No.1 is pending in C.C.No.13 of 2017, on the file of the learned Judicial Magistrate No.I, Madurai. It would not be proper to charge both the thief and receiver of stolen article jointly. There should be a finding that the alleged mobile phone has been stolen by the Accused No.1. Only thereafter, the receiver of the stolen article can be prosecuted. Therefore, the proceedings against the petitioner herein / Accused No.2 in C.C.No.13 of 2017 is quashed.

5.With the aforesaid observations, this Criminal Original Petition is disposed of. It is open to the first respondent to take action against the petitioner herein, after disposal of the case against the Accused No.1. Consequently, connected Criminal Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Inspector of Police,
B1- Vilakkuthoon Police Station,
Madurai City.

2.The learned Judicial Magistrate No.I,
Madurai.

+1cc to M/S.A.B.Jeeva, Advocate SR.No. 47934

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ia

JM/RSK/SAR 1/14.05.2018/2P/4C